



# LAWS OF ALASKA

2005

**Source**

SCS CSSSHB 53(FIN) am S

**Chapter No.**

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**AN ACT**

Relating to child-in-need-of-aid proceedings; amending the construction of statutes pertaining to children in need of aid; relating to guardianships; relating to the confidentiality of investigations, court hearings, court records, and public agency records and information in child-in-need-of-aid matters and certain child protection matters, to immunity regarding disclosure of information in child-in-need-of-aid matters and certain child protection matters, to proceedings regarding voluntary relinquishment and termination of a parent and child relationship, to eligibility for permanent fund dividends for certain children in the custody of the state, and to juvenile delinquency proceedings and placements; reestablishing and relating to a state citizens' review panel; amending the obligation of a public agency to disclose agency information pertaining to a child in need of aid; relating to disclosure of confidential or privileged information about children and families involved with children's services within the Department of Health and Social Services to officials for review or use in official capacities; relating to reports of harm and to adoptions and foster care; relating to consent for the medication of children in state custody; prescribing the rights of family members related to child-in-need-of-aid cases and establishing a familial priority for adoption; modifying adoption and placement procedures in certain child-in-need-of-aid cases; relating to the admissibility into evidence of the prior recorded statement of a crime victim less than 16 years of age; amending Rules 9 and 13, Alaska Adoption Rules, Rules 3, 17.2, 18, and 22, Alaska Child in Need of Aid Rules of Procedure, and Rules 14 and 15, Alaska Rules of Probate Procedure; amending Rule 801, Alaska Rules of Evidence; and providing for an effective date.

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**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

THE ACT FOLLOWS ON PAGE 1



**AN ACT**

1 Relating to child-in-need-of-aid proceedings; amending the construction of statutes pertaining  
2 to children in need of aid; relating to guardianships; relating to the confidentiality of  
3 investigations, court hearings, court records, and public agency records and information in  
4 child-in-need-of-aid matters and certain child protection matters, to immunity regarding  
5 disclosure of information in child-in-need-of-aid matters and certain child protection matters,  
6 to proceedings regarding voluntary relinquishment and termination of a parent and child  
7 relationship, to eligibility for permanent fund dividends for certain children in the custody of  
8 the state, and to juvenile delinquency proceedings and placements; reestablishing and relating  
9 to a state citizens' review panel; amending the obligation of a public agency to disclose  
10 agency information pertaining to a child in need of aid; relating to disclosure of confidential  
11 or privileged information about children and families involved with children's services within

1 the Department of Health and Social Services to officials for review or use in official  
2 capacities; relating to reports of harm and to adoptions and foster care; relating to consent for  
3 the medication of children in state custody; prescribing the rights of family members related  
4 to child-in-need-of-aid cases and establishing a familial priority for adoption; modifying  
5 adoption and placement procedures in certain child-in-need-of-aid cases; relating to the  
6 admissibility into evidence of the prior recorded statement of a crime victim less than 16 years  
7 of age; amending Rules 9 and 13, Alaska Adoption Rules, Rules 3, 17.2, 18, and 22, Alaska  
8 Child in Need of Aid Rules of Procedure, and Rules 14 and 15, Alaska Rules of Probate  
9 Procedure; amending Rule 801, Alaska Rules of Evidence; and providing for an effective  
10 date.

11 \_\_\_\_\_  
12 \* **Section 1.** AS 13.26.055 is amended to read:

13 **Sec. 13.26.055. Court appointment of guardian of minor; qualifications;**  
14 **priority of minor's nominee and adult family member.** The court may appoint as  
15 guardian any **adult** [PERSON] whose appointment would be in the best interests of  
16 the minor **and is consistent with a priority given to an adult family member**. The  
17 court shall appoint a person nominated by the minor, if the minor is 14 years of age or  
18 older, unless the court finds the appointment contrary to the best interests of the minor.  
19 **In this section, "adult family member" has the meaning given in AS 47.10.990.**

20 \* **Sec. 2.** AS 13.26 is amended by adding a new section to read:

21 **Sec. 13.26.064. Guardianship after voluntary relinquishment; procedure.**  
22 In addition to the applicable procedures under this chapter, a guardianship decree and  
23 review of a guardianship decree are governed by the procedures established under  
24 AS 25.23.180 and, for a child-in-need-of-aid, AS 47.10.089, pertaining to voluntary  
25 relinquishment of parental rights and retaining of parental privileges in a guardianship  
26 decree.

27 \* **Sec. 3.** AS 25.23 is amended by adding a new section to read:

1           **Sec. 25.23.127. Adult family member preference to adopt.** Taking into  
2 consideration a child's stated preference under AS 25.23.125(a) and consent given  
3 under AS 25.23.040(a)(5), and unless the court finds that a petition to adopt the child  
4 by an adult family member is contrary to the best interest of the child, the court shall  
5 grant a petition to adopt a child by an adult family member who has had physical  
6 custody of the child for at least 12 consecutive months before the parental rights to the  
7 child have been terminated. In this section, "adult family member" has the meaning  
8 given in AS 47.10.990.

9   \* **Sec. 4.** AS 25.23.180 is amended by adding new subsections to read:

10           (j) In a relinquishment of parental rights executed under (a) of this section, a  
11 parent may retain privileges with respect to the child, including the ability to have  
12 future contact, communication, and visitation with the child. A retained privilege  
13 must be stated in writing with specificity. Not less than 10 days after the  
14 relinquishment is signed, the court may enter an order terminating parental rights if the  
15 court finds that termination of parental rights under the terms of the agreement is in  
16 the child's best interest. If a parent has retained one or more privileges, the court shall  
17 incorporate the retained privileges into the termination order with a recommendation  
18 that the retained privileges be incorporated in an adoption or legal guardianship  
19 decree.

20           (k) A voluntary relinquishment may not be withdrawn and a termination order  
21 may not be vacated on the ground that a retained privilege has been withheld from the  
22 relinquishing parent or that the relinquishing parent has been unable, for any reason, to  
23 act on a retained privilege, except as provided in Rule 60(b), Alaska Rules of Civil  
24 Procedure.

25           (l) After a termination order is entered, a person who has voluntarily  
26 relinquished parental rights under this section may request a review hearing, upon a  
27 showing of good cause, to seek enforcement or modification of or to vacate a privilege  
28 retained in the termination order. The court may modify, enforce, or vacate the  
29 retained privilege if the court finds, by clear and convincing evidence, that it is in the  
30 best interest of the child to do so.

31           (m) After a termination order is entered and before the entry of an adoption or

1 legal guardianship decree, a prospective adoptive parent or a guardian of a child who  
2 is the subject of an adoption decree may request, after providing notice as specified  
3 under this subsection, that the court decline to incorporate a privilege retained in a  
4 termination order and recommended for incorporation in an adoption or guardianship  
5 decree under (j) of this section. The request made under this subsection may only be  
6 considered by the court after providing at least 20 days' notice by certified mail to the  
7 last known address of the person who has voluntarily relinquished parental rights to  
8 the child. The notice under this subsection must describe the request and explain that  
9 the recipient of the notice may submit a written statement under penalty of perjury to  
10 the court that the recipient either agrees with or opposes the request. The notice must  
11 also include the deadline for submitting the statement and the mailing address of the  
12 court. The court may decline to incorporate a retained privilege if the person who  
13 retained the privilege agrees with the request or if the court finds that it is in the child's  
14 best interest.

15 (n) A person who relinquished parental rights is entitled to the appointment of  
16 an attorney if a hearing is requested under (l) or (m) of this section to the same extent  
17 as if the parent's rights had not been terminated in a child-in-need-of-aid proceeding.

18 \* **Sec. 5.** AS 43.23.005(f) is amended to read:

19 (f) **The** [IN A TIME OF NATIONAL MILITARY EMERGENCY, THE]  
20 commissioner may waive the requirement of (a)(4) of this section for an individual  
21 absent from the state

22 **(1) in a time of national military emergency** under military orders  
23 while serving in the armed forces of the United States, or for the spouse and  
24 dependents of that individual; **or**

25 **(2) while in the custody of the Department of Health and Social**  
26 **Services in accordance with a court order under AS 47.10 or AS 47.12 and placed**  
27 **outside of the state by the Department of Health and Social Services for purposes**  
28 **of medical or behavioral treatment.**

29 \* **Sec. 6.** AS 47.10.005 is amended to read:

30 **Sec. 47.10.005. Construction.** The provisions of this chapter shall be  
31 liberally construed to

1                   **(1) achieve** the end that a child coming within the jurisdiction of the  
2 court under this chapter may receive the care, guidance, treatment, and control that  
3 will promote the child's welfare **and the parents' participation in the upbringing of**  
4 **the child to the fullest extent consistent with the child's best interests; and**

5                   **(2) follow the findings set out in AS 47.05.065.**

6 \* **Sec. 7.** AS 47.10.020(a) is amended to read:

7                   (a) Whenever circumstances subject a child to the jurisdiction of the court  
8 under AS 47.10.005 - 47.10.142, the court shall appoint a competent person or agency  
9 to make a preliminary inquiry and report for the information of the court to determine  
10 whether the best interests of the child require that further action be taken. **The court**  
11 **shall make the appointment on its own motion or at the request of a person or**  
12 **agency having knowledge of the child's circumstances.** If, under this subsection,  
13 the court appoints a person or agency to make a preliminary inquiry and to report to it,  
14 **or if the department is conducting an investigation of a report of child abuse or**  
15 **neglect, the court may issue any orders necessary to aid the person, the agency,**  
16 **or the department in its investigation or in making the preliminary inquiry and**  
17 **report. Upon** [THEN, UPON THE] receipt of the report **under this subsection,** the  
18 court may

19                               (1) close the matter without a court hearing;

20                               (2) determine whether the best interests of the child require that further  
21 action be taken; or

22                               (3) authorize the person or agency having knowledge of the facts of the  
23 case to file with the court a petition setting out the facts.

24 \* **Sec. 8.** AS 47.10.020 is amended by adding a new subsection to read:

25                   (e) Nothing in this section requires the department to obtain authorization  
26 from the court before

27                               (1) conducting an investigation of a report of child abuse or neglect; or

28                               (2) filing a petition.

29 \* **Sec. 9.** AS 47.10.070(a) is amended to read:

30                   (a) The court may conduct the hearing on the petition in an informal manner.  
31 The court shall give notice of the hearing to the department, and it may send a

1 representative to the hearing. The court shall also transmit a copy of the petition to the  
2 department. The department shall send notice of the hearing to the persons for whom  
3 notice is required under AS 47.10.030(b) and to each grandparent of the child entitled  
4 to notice under AS 47.10.030(d). The department and the persons to whom the  
5 department must send notice of the hearing are entitled to be heard at the hearing.  
6 **Except as provided in (c) of this section, and unless prohibited by federal or state**  
7 **law, court order, or court rule, a hearing is open to the public** [HOWEVER, THE  
8 COURT MAY LIMIT THE PRESENCE OF THE FOSTER PARENT OR OTHER  
9 OUT-OF-HOME CARE PROVIDER AND OF ANY GRANDPARENT OF THE  
10 CHILD TO THE TIME DURING WHICH THE PERSON'S TESTIMONY IS BEING  
11 GIVEN IF IT IS (1) IN THE BEST INTEREST OF THE CHILD; OR (2)  
12 NECESSARY TO PROTECT THE PRIVACY INTERESTS OF THE PARTIES  
13 AND WILL NOT BE DETRIMENTAL TO THE CHILD. THE PUBLIC SHALL BE  
14 EXCLUDED FROM THE HEARING, BUT THE COURT, IN ITS DISCRETION,  
15 MAY PERMIT INDIVIDUALS TO ATTEND A HEARING IF THEIR  
16 ATTENDANCE IS COMPATIBLE WITH THE BEST INTERESTS OF THE  
17 CHILD].

18 \* **Sec. 10.** AS 47.10.070 is amended by adding new subsections to read:

19 (c) Except as provided in (e) of this section, the following hearings in child-in-  
20 need-of-aid cases are closed to the public:

21 (1) the initial court hearing after the filing of a petition to commence  
22 the child-in-need-of-aid case;

23 (2) a hearing following the initial hearing in which a parent, child, or  
24 other party to the case is present but has not had an opportunity to obtain legal  
25 representation;

26 (3) a hearing, or a part of a hearing, for which the court issues a written  
27 order finding that allowing the hearing, or part of the hearing, to be open to the public  
28 would reasonably be expected to

29 (A) stigmatize or be emotionally damaging to a child;

30 (B) inhibit a child's testimony in that hearing;

31 (C) disclose matters otherwise required to be kept confidential

1 by state or federal statute or regulation, court order, or court rule; or

2 (D) interfere with a criminal investigation or proceeding or a  
3 criminal defendant's right to a fair trial in a criminal proceeding; before ruling  
4 on a request under this subparagraph, the court shall give notice and an  
5 opportunity to be heard to the state or a municipal agency that is assigned to  
6 the criminal investigation or to the prosecuting attorney.

7 (d) If a hearing, or part of a hearing, in a child-in-need-of-aid case is not  
8 closed under (c) of this section, the court shall hear in camera any information offered  
9 regarding the location, or readily leading to the location, of a parent, child, or other  
10 party to the case who is a victim of domestic violence or whose safety or welfare may  
11 be endangered by public release of the information. Access to testimony heard in  
12 camera under this subsection is limited to the court and authorized court personnel.

13 (e) The grandparents of the child and an out-of-home care provider may attend  
14 hearings that are otherwise closed to the public under (c) of this section. However, the  
15 court shall limit the presence of these persons in a hearing closed to the public to the  
16 time during which the person's testimony is being given if the court determines that  
17 the limitation is necessary under (c)(3) of this section.

18 (f) Notwithstanding any other provision of this chapter, a person attending a  
19 hearing open to the public may not disclose a name, picture, or other information that  
20 would readily lead to the identification of a child who is the subject of the child-in-  
21 need-of-aid case. At the beginning of the hearing, the court shall issue an order  
22 specifying the restrictions necessary to comply with this subsection. If a person  
23 violates the order, the court may impose any appropriate sanction, including contempt  
24 and closure of any further hearings to the person.

25 \* **Sec. 11.** AS 47.10.080(c) is amended to read:

26 (c) If the court finds that the child is a child in need of aid, the court shall

27 (1) order the child committed to the department for placement in an  
28 appropriate setting for a period of time not to exceed two years or in any event **not to**  
29 **extend** past the date the child becomes 19 years of age, except that the department or  
30 the child's guardian ad litem may petition for and the court may grant in a hearing

31 (A) one-year extensions of commitment that do not extend

1 beyond the child's 19th birthday if the extension is in the best interests of the  
2 child; and

3 (B) an additional one-year period of state custody past [AGE]  
4 19 **years of age** if the continued state custody is in the best interests of the  
5 person and the person consents to it;

6 (2) order the child released to a parent, **adult family member**  
7 [RELATIVE], or guardian of the child or to another suitable person, and, in  
8 appropriate cases, order the parent, **adult family member** [RELATIVE], guardian, or  
9 other person to provide medical or other care and treatment; if the court releases the  
10 child, it shall direct the department to supervise the care and treatment given to the  
11 child, but the court may dispense with the department's supervision if the court finds  
12 that the adult to whom the child is released will adequately care for the child without  
13 supervision; the department's supervision may not exceed two years or in any event  
14 extend past the date the child reaches [AGE] 19 **years of age**, except that the  
15 department or the child's guardian ad litem may petition for and the court may grant in  
16 a hearing

17 (A) one-year extensions of supervision that do not extend  
18 beyond the child's 19th birthday if the extensions are in the best interests of the  
19 child; and

20 (B) an additional one-year period of supervision past [AGE] 19  
21 **years of age** if the continued supervision is in the best interests of the person  
22 and the person consents to it; or

23 (3) order, under the grounds specified in (o) of this section or  
24 AS 47.10.088, the termination of parental rights and responsibilities of one or both  
25 parents and commit the child to the custody of the department, and the department  
26 shall report quarterly to the court on efforts being made to find a permanent placement  
27 for the child.

28 \* **Sec. 12.** AS 47.10.080(*l*) is amended to read:

29 (*l*) Within 12 months after the date a child enters foster care as calculated  
30 under AS 47.10.088(f), the court shall hold a permanency hearing. The hearing and  
31 permanent plan developed in the hearing are governed by the following provisions:

1 (1) the persons entitled to be heard under AS 47.10.070 or under (f) of  
2 this section are also entitled to be heard at the hearing held under this subsection;

3 (2) when establishing the permanent plan for the child, the court shall  
4 make appropriate written findings, including findings related to whether

5 (A) and when the child should be returned to the parent or  
6 guardian;

7 (B) the child should be placed for adoption or legal  
8 guardianship and whether a petition for termination of parental rights should be  
9 filed by the department; and

10 (C) the child should be placed in another planned, permanent  
11 living arrangement and what steps are necessary to achieve the new  
12 arrangement;

13 (3) if the court is unable to make a finding required under (2) of this  
14 subsection, the court shall hold another hearing within a reasonable period of time;

15 (4) in addition to the findings required by (2) of this subsection, the  
16 court shall also make appropriate written findings related to

17 (A) whether the department has made the reasonable efforts  
18 required under AS 47.10.086 to offer appropriate family support services to  
19 remedy the parent's or guardian's conduct or conditions in the home that made  
20 the child a child in need of aid under this chapter;

21 (B) whether the parent or guardian has made substantial  
22 progress to remedy the parent's or guardian's conduct or conditions in the home  
23 that made the child a child in need of aid under this chapter; [AND]

24 (C) if the permanent plan is for the child to remain in out-of-  
25 home-care, whether the child's out-of-home placement continues to be  
26 appropriate and in the best interests of the child; **and**

27 **(D) whether the department has made reasonable efforts to**  
28 **finalize the permanent plan for the child;**

29 (5) the court shall hold a hearing to review the permanent plan at least  
30 annually until successful implementation of the plan; if the plan approved by the court  
31 changes after the hearing, the department shall promptly apply to the court for another

1 permanency hearing, and the court shall conduct the hearing within 30 days after  
2 application by the department.

3 \* **Sec. 13.** AS 47.10.080(p) is amended to read:

4 (p) If a child is removed from the parental home, the department shall provide  
5 reasonable visitation between the child and the child's parents, guardian, and family.  
6 When determining what constitutes reasonable visitation with a family member, the  
7 department shall consider the nature and quality of the relationship that existed  
8 between the child and the family member before the child was committed to the  
9 custody of the department. The court may require the department to file a visitation  
10 plan with the court. The department may deny visitation to the parents, guardian, or  
11 family members if there is clear and convincing evidence that visits are not in the  
12 child's best interests. **If the department denies visitation to a parent or family**  
13 **member of a child, the department shall inform the parent or family member of a**  
14 **reason for the denial and of the parent's or adult family member's right to**  
15 **request a review hearing as an interested person.** A parent, **adult family member,**  
16 or guardian who is denied visitation may request a review hearing. **A non-party**  
17 **adult family member requesting a review hearing under this subsection is not**  
18 **eligible for publicly appointed legal counsel.**

19 \* **Sec. 14.** AS 47.10.080 is amended by adding new subsections to read:

20 (t) For a child who is placed in foster care, when the department finds that it is  
21 in the best interest of a child and that the foster family will not be placed in undue risk  
22 of harm, the department shall require foster parents to provide regular opportunities  
23 for visitation with the child by the parents of the child and encourage foster parents to  
24 serve as mentors for facilitating family reunification.

25 (u) A hearing conducted under this section is open to the public unless an  
26 exception provided in AS 47.10.070(c) applies to make the hearing closed to the  
27 public or unless prohibited by federal or state statute or regulation.

28 \* **Sec. 15.** AS 47.10.084(c) is amended to read:

29 (c) When there has been transfer of legal custody or appointment of a guardian  
30 and parental rights have not been terminated by court decree, the parents shall have  
31 residual rights and responsibilities. These residual rights and responsibilities of the

1 parent include, but are not limited to, the right and responsibility of reasonable  
2 visitation, consent to adoption, consent to marriage, consent to military enlistment,  
3 consent to major medical treatment except in cases of emergency or cases falling  
4 under AS 25.20.025, and the responsibility for support, except if by court order any  
5 residual right and responsibility has been delegated to a guardian under (b) of this  
6 section. **In this subsection, "major medical treatment" includes the**  
7 **administration of medication used to treat a mental health disorder.**

8 \* Sec. 16. AS 47.10.088(i) is amended to read:

9 (i) The department shall concurrently identify, recruit, process, and approve a  
10 qualified person or family for an adoption whenever a petition to terminate a parent's  
11 rights to a child is filed. **Before identifying a placement of the child in an adoptive**  
12 **home, the department shall attempt to locate all living adult family members of**  
13 **the child and, if an adult family member expresses an interest in adopting the**  
14 **child, investigate the adult family member's ability to care for the child. The**  
15 **department shall provide to all adult family members of the child located by the**  
16 **department written notice of the adult family members' rights under this chapter**  
17 **and of the procedures necessary to gain custody of the child, but the**  
18 **department's obligation to provide written notice under this subsection does not**  
19 **apply to a parent of the child whose parental rights are being or have been**  
20 **terminated or to an adult family member who is known by the department to be**  
21 **ineligible for a foster care license under AS 47.35.019 or 47.35.021. If an adult**  
22 **family member of the child requests that the department approve the adult**  
23 **family member for an adoption, the department shall approve the request unless**  
24 **there is good cause not to approve the adoption.** If the court issues an order to  
25 terminate under (j) of this section, the department shall report within 30 days on the  
26 efforts being made to recruit a permanent placement for the child if a permanent  
27 placement was not approved at the time of the trial under (j) of this section. The  
28 report must document recruitment efforts made for the child.

29 \* Sec. 17. AS 47.10 is amended by adding a new section to read:

30 **Sec. 47.10.089. Voluntary relinquishment of parental rights and**  
31 **responsibilities.** (a) When a child is committed to the custody of the department

1 under AS 47.10.080(c)(1) or (3) or released under AS 47.10.080(c)(2), the rights of a  
2 parent with respect to the child, including parental rights to control the child, to  
3 withhold consent to an adoption, or to receive notice of a hearing on a petition for  
4 adoption, may be voluntarily relinquished to the department and the relationship of  
5 parent and child terminated in a proceeding as provided under this section.

6 (b) A voluntary relinquishment must be in writing and signed by a parent,  
7 regardless of the age of the parent, in the presence of a representative of the  
8 department or in the presence of a court of competent jurisdiction with the knowledge  
9 and approval of the department. A copy of the signed relinquishment shall be given to  
10 the parent.

11 (c) A voluntary relinquishment may be withdrawn within 10 days after it is  
12 signed. The relinquishment is invalid unless the relinquishment contains the right of  
13 withdrawal as specified under this subsection.

14 (d) A parent may retain privileges with respect to the child, including the  
15 ability to have future contact, communication, and visitation with the child in a  
16 voluntary relinquishment executed under this section. A retained privilege must be in  
17 writing and stated with specificity.

18 (e) Not less than 10 days after a voluntary relinquishment is signed, the court  
19 shall enter an order terminating parental rights if the court determines that termination  
20 of parental rights under the terms of the relinquishment is in the child's best interest.  
21 If a parent has retained one or more privileges under (d) of this section, the court shall  
22 incorporate the retained privileges in the termination order with a recommendation  
23 that the retained privileges be incorporated in an adoption or legal guardianship  
24 decree.

25 (f) A voluntary relinquishment may not be withdrawn and a termination order  
26 may not be vacated on the ground that a retained privilege has been withheld from the  
27 relinquishing parent or that the relinquishing parent has been unable, for any reason, to  
28 act on a retained privilege, except as provided in Rule 60(b), Alaska Rules of Civil  
29 Procedure.

30 (g) After a termination order is entered, a person who has voluntarily  
31 relinquished parental rights under this section may request a review hearing, upon a

1 showing of good cause, to seek enforcement or modification of or to vacate a privilege  
2 retained in the termination order. The court may modify, enforce, or vacate the  
3 retained privilege if the court finds, by clear and convincing evidence, that it is in the  
4 best interest of the child to do so.

5 (h) After a termination order is entered and before the entry of an adoption or  
6 legal guardianship decree, a person who voluntarily relinquished parental rights to a  
7 child under this section may request a review hearing, upon a showing of good cause,  
8 to vacate the termination order and reinstate parental rights relating to that child. A  
9 court shall vacate a termination order if the person shows, by clear and convincing  
10 evidence, that reinstatement of parental rights is in the best interest of the child and  
11 that the person is rehabilitated and capable of providing the care and guidance that will  
12 serve the moral, emotional, mental, and physical welfare of the child.

13 (i) A person who relinquished parental rights is entitled to the appointment of  
14 an attorney if a hearing is requested under (g), (h), or (j) of this section to the same  
15 extent as if the parent's rights had not been terminated in a child-in-need-of-aid  
16 proceeding.

17 (j) After a termination order is entered and before the entry of an adoption or  
18 legal guardianship decree, a prospective adoptive parent or a guardian of a child who  
19 is the subject of the adoption or guardianship decree may request, after providing  
20 notice as specified under this subsection, that the court decline to incorporate a  
21 privilege retained in a termination order and recommended for incorporation in an  
22 adoption or guardianship decree under (e) of this section. The request made under this  
23 subsection may only be considered by the court after providing at least 20 days' notice  
24 by certified mail to the last known address of the person who has voluntarily  
25 relinquished parental rights to the child. The notice under this subsection must  
26 describe the request and explain that the recipient of the notice may submit a written  
27 statement under penalty of perjury to the court that the recipient either agrees with or  
28 opposes the request. The notice must also include the deadline for submitting the  
29 statement and the mailing address of the court. The court may decline to incorporate a  
30 retained privilege if the person who retained the privilege agrees with the request or if  
31 the court finds that it is in the child's best interest.

1 \* **Sec. 18.** AS 47.10.090(c) is amended to read:

2 (c) Within 30 days **after** [OF] the date of a **child's** [MINOR'S] 18th birthday  
3 or, if the court retains jurisdiction of a **child** [MINOR] past the **child's** [MINOR'S]  
4 18th birthday, within 30 days **after** [OF] the date on which the court releases  
5 jurisdiction over the **child** [MINOR], the court shall order all the court's official  
6 records pertaining to that **child** [MINOR] in a proceeding under this chapter sealed. A  
7 person may not use these sealed records **unless authorized by order of** [FOR ANY  
8 PURPOSE EXCEPT THAT] the court **upon a finding of** [MAY ORDER THEIR  
9 USE FOR] good cause [SHOWN].

10 \* **Sec. 19.** AS 47.10.090(d) is amended to read:

11 (d) The name or picture of a **child** [MINOR] under the jurisdiction of the court  
12 may not be made public in connection with the **child's** [MINOR'S] status as a child in  
13 need of aid unless authorized by order of the court **or unless to implement the**  
14 **permanency plan for a child after all parental rights of custody have been**  
15 **terminated. This subsection does not prohibit the release of aggregate**  
16 **information for statistical or other informational purposes if the identity of any**  
17 **particular person is not revealed by the release.**

18 \* **Sec. 20.** AS 47.10.092(a) is amended to read:

19 (a) Notwithstanding AS 47.10.090 and 47.10.093, a parent or legal guardian of  
20 a child subject to a proceeding under AS 47.10.005 - 47.10.142 may disclose  
21 confidential or privileged information about the child or the child's family, including  
22 information that has been lawfully obtained from agency or court files, to the  
23 governor, the lieutenant governor, a legislator, the ombudsman appointed under  
24 AS 24.55, the attorney general, and the **commissioner** [COMMISSIONERS] of health  
25 and social services, administration, or public safety, or an employee of these persons,  
26 for review or use in their official capacities. The **Department of Health and Social**  
27 **Services and the Department of Administration** [DEPARTMENT] shall disclose  
28 additional confidential or privileged information, **excluding privileged attorney-**  
29 **client information,** and make copies of documents available for inspection about the  
30 child or the child's family to these state officials or employees for review or use in  
31 their official capacities upon request of the official or employee and submission of

1 satisfactory evidence that a parent or legal guardian of the child has requested the state  
2 official's assistance in the case as part of the official's duties. A person to whom  
3 disclosure is made under this section may not disclose confidential or privileged  
4 information about the child or the child's family to a person not authorized to receive  
5 it.

6 \* **Sec. 21.** AS 47.10.092 is amended by adding new subsections to read:

7 (d) The obligations under (a) of this section remain in effect throughout the  
8 period that the child is in the custody of the department, including after the parent's  
9 parental rights have been terminated with respect to the child, unless the child's parent  
10 or legal guardian who made the disclosure under (a) of this section subsequently files  
11 a notice with the Department of Health and Social Services that the assistance of the  
12 state official or employee is no longer requested.

13 (e) The Department of Health and Social Services shall notify an official  
14 identified under (a) of this section of the opportunity for a parent to file a grievance  
15 under AS 47.10.098 when the official is denied access to all or part of a requested  
16 record.

17 \* **Sec. 22.** AS 47.10.093(a) is amended to read:

18 (a) Except as **permitted** [SPECIFIED] in AS 47.10.092 and **in (b) - (g) and**  
19 **(k) - (n)** [(b) - (g)] of this section, all information and social records pertaining to a  
20 **child** [MINOR] who is subject to this chapter or AS 47.17 prepared by or in the  
21 possession of a federal, state, or municipal agency or employee in the discharge of the  
22 agency's or employee's official duty are privileged and may not be disclosed directly  
23 or indirectly to anyone without a court order.

24 \* **Sec. 23.** AS 47.10.093(b) is amended to read:

25 (b) A state or municipal agency or employee shall disclose appropriate  
26 **confidential** information regarding a case to

- 27 (1) a guardian ad litem appointed by the court;
- 28 (2) a person or an agency requested by the department or the child's  
29 legal custodian to provide consultation or services for a child who is subject to the  
30 jurisdiction of the court under AS 47.10.010 as necessary to enable the provision of  
31 the consultation or services;

1 (3) **an out-of-home care provider** [FOSTER PARENTS OR  
2 RELATIVES WITH WHOM THE CHILD IS PLACED BY THE DEPARTMENT]  
3 as [MAY BE] necessary to enable the **out-of-home care provider** [FOSTER  
4 PARENTS OR RELATIVES] to provide appropriate care **to** [FOR] the child [WHO  
5 IS THE SUBJECT OF THE CASE], to protect the safety of the child [WHO IS THE  
6 SUBJECT OF THE CASE], and to protect the safety and property of family members  
7 and visitors of the **out-of-home care provider** [FOSTER PARENTS OR  
8 RELATIVES];

9 (4) **a** school **official** [OFFICIALS] as [MAY BE] necessary to enable  
10 the school to provide appropriate counseling and support services to **a** [THE] child  
11 who is the subject of the case, to protect the safety of the child [WHO IS THE  
12 SUBJECT OF THE CASE], and to protect the safety of school students and staff;

13 (5) a governmental agency as [MAY BE] necessary to obtain that  
14 agency's assistance for the department in its investigation or to obtain physical custody  
15 of a child;

16 (6) a law enforcement agency of this state or another jurisdiction as  
17 [MAY BE] necessary for the protection of any child or for actions by that agency to  
18 protect the public safety;

19 (7) **a member** [MEMBERS] of a multidisciplinary child protection  
20 team created under AS 47.14.300 as [MAY BE] necessary for the performance of **the**  
21 **member's** [THEIR] duties;

22 (8) the state medical examiner under AS 12.65 as [MAY BE]  
23 necessary for the performance of the duties of the state medical examiner;

24 (9) a person who has made a report of harm as required by  
25 AS 47.17.020 to inform the person that the investigation was completed and of action  
26 taken to protect the child who was the subject of the report; [AND]

27 (10) the child support services agency established in AS 25.27.010 as  
28 [MAY BE] necessary to establish and collect child support for a child who is a child in  
29 need of aid under this chapter;

30 (11) **a parent, guardian, or caregiver of a child or an entity**  
31 **responsible for ensuring the safety of children as necessary to protect the safety**

1 **of a child; and**

2 **(12) a review panel established by the department for the purpose**  
3 **of reviewing the actions taken by the department in a specific case.**

4 \* **Sec. 24.** AS 47.10.093(c) is repealed and reenacted to read:

5 (c) A state or municipal law enforcement agency shall disclose information  
6 regarding a case that is needed by the person or agency charged with making a  
7 preliminary investigation for the information of the court under AS 47.10.020.

8 \* **Sec. 25.** AS 47.10.093(f) is amended to read:

9 (f) The department may release to a person with a legitimate interest  
10 **confidential** information relating to **children** [MINORS] not subject to the  
11 jurisdiction of the court under AS 47.10.010. [THE DEPARTMENT SHALL ADOPT  
12 REGULATIONS GOVERNING THE RELEASE OF INFORMATION AND  
13 IDENTIFYING A SUFFICIENT LEGITIMATE INTEREST.]

14 \* **Sec. 26.** AS 47.10.093(g) is amended to read:

15 (g) The department and affected law enforcement agencies shall work with  
16 school districts and private schools to develop procedures for the disclosure of  
17 **confidential** information to **a** school **official** [OFFICIALS] under (b)(4) of this  
18 section. The procedures must provide a method for informing the principal or the  
19 principal's designee of the school **that** the student attends as soon as it is reasonably  
20 practicable.

21 \* **Sec. 27.** AS 47.10.093 is amended by adding new subsections to read:

22 (k) The commissioner of health and social services or the commissioner's  
23 designee or the commissioner of administration or the commissioner's designee, as  
24 appropriate, may disclose to the public, upon request, confidential information, as set  
25 out in (l) of this section, when

26 (1) the parent or guardian of a child who is the subject of a report of  
27 harm under AS 47.17 has made a public disclosure concerning the department's  
28 involvement with the family;

29 (2) the alleged perpetrator named in a report of harm under AS 47.17  
30 has been charged with a crime concerning the alleged abuse or neglect; or

31 (3) a report of harm under AS 47.17 has resulted in the fatality or near

1 fatality of that child.

2 (l) The type of information that may be publicly disclosed under (k) of this  
3 section is information related to the determination, if any, made by the department  
4 regarding the validity of a report of harm under AS 47.17 and the department's  
5 activities arising from the department's investigation of the report. The commissioner  
6 or the commissioner's designee

7 (1) shall withhold disclosure of the child's name, picture, or other  
8 information that would readily lead to the identification of the child if the department  
9 determines that the disclosure would be contrary to the best interests of the child, the  
10 child's siblings, or other children in the child's household; or

11 (2) after consultation with a prosecuting attorney, shall withhold  
12 disclosure of information that would reasonably be expected to interfere with a  
13 criminal investigation or proceeding or a criminal defendant's right to a fair trial in a  
14 criminal proceeding.

15 (m) Except for a disclosure made under (k) of this section, a person to whom  
16 disclosure is made under this section may not disclose confidential information about  
17 the child or the child's family to a person not authorized to receive it.

18 (n) The Department of Health and Social Services and the Department of  
19 Administration shall adopt regulations to implement and interpret the duties of the  
20 respective department under this section, including regulations governing the release  
21 of confidential information and identifying a sufficient legitimate interest under (f) of  
22 this section.

23 (o) A person may not bring an action for damages against the state, the  
24 commissioner, or the commissioner's designee based on the disclosure or  
25 nondisclosure of information under (k) of this section except for civil damages  
26 resulting from gross negligence or reckless or intentional misconduct.

27 \* **Sec. 28.** AS 47.10 is amended by adding a new section to read:

28 **Sec. 47.10.098. Grievance procedure.** (a) The department shall develop, in  
29 regulation, a grievance procedure for a parent to file a complaint based on

30 (1) the application of a department policy or procedure under this  
31 chapter;

1 (2) compliance with this chapter or a regulation adopted under this  
2 chapter; or

3 (3) an act or failure to act by the department under this chapter.

4 (b) The department shall prepare and distribute to each parent of a child who  
5 is under the jurisdiction of the department a written copy of the grievance procedure  
6 developed under (a) of this section.

7 \* **Sec. 29.** AS 47.10.960 is repealed and reenacted to read:

8 **Sec. 47.10.960. Civil liability.** Failure to comply with a provision of this title  
9 does not constitute a basis for civil liability for damages.

10 \* **Sec. 30.** AS 47.10.990(16) is amended to read:

11 (16) "mental health professional" has the meaning given in  
12 AS 47.30.915, **except that, if the child is placed in another state by the**  
13 **department, "mental health professional" also includes a professional listed in**  
14 **the definition of "mental health professional" in AS 47.30.915 who is not licensed**  
15 **to practice by a board of this state but is licensed by a corresponding licensing**  
16 **authority to practice in the state in which the child is placed;**

17 \* **Sec. 31.** AS 47.10.990 is amended by adding new paragraphs to read:

18 (28) "adult family member" means a person who is 18 years of age or  
19 older and who is

20 (A) related to the child as the child's grandparent, aunt, uncle,  
21 or sibling; or

22 (B) the child's sibling's legal guardian or parent;

23 (29) "family member" means a person of any age who is

24 (A) related to the child as the child's grandparent, aunt, uncle,  
25 or sibling; or

26 (B) the child's sibling's legal guardian or parent;

27 (30) "near fatality" means physical injury or other harm, as certified by  
28 a physician, caused by an act or omission that created a substantial risk of death;

29 (31) "out-of-home care provider" means a foster parent or relative  
30 other than a parent with whom the child is placed.

31 \* **Sec. 32.** AS 47.12.990(10) is amended to read:

1 (10) "mental health professional" has the meaning given in  
2 AS 47.30.915, except that, if the minor is placed in another state by the  
3 department, "mental health professional" also includes a professional listed in  
4 the definition of "mental health professional" in AS 47.30.915 who is not licensed  
5 to practice by a board of this state but is licensed by a corresponding licensing  
6 authority to practice in the state in which the minor is placed;

7 \* **Sec. 33.** AS 47.14.100(a) is amended to read:

8 (a) Subject to (e), (f), and **(i) - (m)** [(i) - (l)] of this section, the department  
9 shall arrange for the care of every child committed to its custody by placing the child  
10 in a foster home or in the care of an agency or institution providing care for children  
11 inside or outside the state. The department may place a child in a suitable family  
12 home, with or without compensation, and may place a child released to it, in writing  
13 verified by the parent, or guardian or other person having legal custody, for adoptive  
14 purposes, in a home for adoption in accordance with existing law.

15 \* **Sec. 34.** AS 47.14.100(e) is repealed and reenacted to read:

16 (e) When a child is removed from a parent's home, the department shall place  
17 the child, in the absence of a showing of good cause to the contrary,

18 (1) in the least restrictive setting that most closely approximates a  
19 family and that meets the child's special needs, if any;

20 (2) within reasonable proximity to the child's home, taking into  
21 account any special needs of the child and the preferences of the child or parent;

22 (3) with, in the following order of preference,

23 (A) an adult family member;

24 (B) a family friend who meets the foster care licensing  
25 requirements established by the department;

26 (C) a licensed foster home that is not an adult family member  
27 or family friend;

28 (D) an institution for children that has a program suitable to  
29 meet the child's needs.

30 \* **Sec. 35.** AS 47.14.100(f) is amended to read:

31 (f) If an adult family member [A BLOOD RELATIVE] of the child

1 specified under (e) of this section exists and agrees that the child should be placed  
2 elsewhere, before placement elsewhere, the department shall fully communicate the  
3 nature of the placement proceedings to the **adult family member** [RELATIVE].  
4 Communication under this subsection shall be made in the **adult family member's**  
5 [RELATIVE'S] native language, if necessary. [NOTHING IN THIS SUBSECTION  
6 OR IN (e) OF THIS SECTION APPLIES TO CHILD PLACEMENT FOR  
7 ADOPTIVE PURPOSES.]

8 \* **Sec. 36.** AS 47.14.100(j) is amended to read:

9 (j) For the purpose of determining whether the home of a relative meets the  
10 requirements for placement of a child **under (e) of this section or under**  
11 **AS 47.10.088(i)**, the department shall conduct a criminal background check from state  
12 and national criminal justice information available under AS 12.62. The department  
13 may conduct a fingerprint background check on any member of the relative's  
14 household who is **16** [12] years of age or older when the relative requests placement of  
15 the child. For the purposes of obtaining criminal justice information under this  
16 subsection, the department is a criminal justice agency conducting a criminal justice  
17 activity under AS 12.62.

18 \* **Sec. 37.** AS 47.14.100 is amended by adding a new subsection to read:

19 (m) Prima facie evidence of good cause not to place a child with an adult  
20 family member or family friend under AS 47.10.088(i) or under (e) of this section  
21 includes grounds for denial of a foster care license under AS 47.35.019 or 47.35.021.  
22 Prima facie evidence of good cause not to place a child with an adult family member  
23 or adult family friend does not include poverty or inadequate or crowded housing. If  
24 the department denies a request for placement with an adult family member or a  
25 family friend, the department shall inform the adult family member or family friend of  
26 the basis for the denial and the right to request a hearing to review the decision. A  
27 non-party adult family member or family friend requesting a review hearing under  
28 AS 47.10.088(i) or under (e) of this section is not eligible for publicly appointed legal  
29 counsel.

30 \* **Sec. 38.** AS 47.14 is amended by adding a new section to article 3 to read:

31 **Sec. 47.14.205. State Citizen Review Panel.** (a) There is established within

1 the department a Citizen Review Panel. The panel shall be composed of volunteer  
2 members who are broadly representative of the state, including members who have  
3 expertise in the prevention and treatment of child abuse and neglect.

4 (b) The panel shall meet not less than once every three months. Meetings may  
5 take place telephonically.

6 \* **Sec. 39.** AS 47.14 is amended by adding a new section to article 3 to read:

7 **Sec. 47.14.215. Duties of the state panel.** (a) The state panel shall evaluate  
8 the extent to which the department is effectively discharging its child protection  
9 responsibilities under

10 (1) the state plan submitted to the United States Department of Health  
11 and Human Services under 42 U.S.C. 5106a(b);

12 (2) child protection standards under federal and state laws; and

13 (3) any other criteria that the panel considers important to ensuring the  
14 protection of children, including the level and efficiency of coordination of foster care  
15 and adoption programs in the state and a review of child fatalities and near fatalities.

16 (b) In carrying out the responsibilities under (a) of this section, the state panel  
17 shall examine the policies, procedures, and practices of the department, and, where  
18 appropriate, evaluate specific cases of child abuse or neglect.

19 (c) The commissioner shall, by regulation, establish policies and procedures  
20 necessary to carrying out the duties of the state panel under this section.

21 \* **Sec. 40.** AS 47.14 is amended by adding a new section to article 3 read:

22 **Sec. 47.14.225. Cooperation with state panel.** (a) The department shall  
23 provide the panel access to information on child abuse or neglect cases that is  
24 necessary for the panel to carry out its duties under AS 47.14.215.

25 (b) The department shall serve as staff to the state panel as requested by the  
26 panel members.

27 \* **Sec. 41.** AS 47.14 is amended by adding a new section to article 3 to read:

28 **Sec. 47.14.235. Confidentiality.** (a) A person attending a meeting of the  
29 state panel or a member or staff of the state panel may not make any disclosure related  
30 to information obtained during a review by the state panel unless authorized under  
31 AS 47.10.092 or 47.10.093.

1 (b) Meetings of the state panel are subject to AS 44.62.310 and 44.62.312.

2 \* **Sec. 42.** AS 47.14 is amended by adding a new section to article 3 to read:

3 **Sec. 47.14.245. Public outreach.** The state panel shall conduct public  
4 outreach and gather public comment on current department procedures and practices  
5 involving children and family services.

6 \* **Sec. 43.** AS 47.14 is amended by adding a new section to article 3 to read:

7 **Sec. 47.14.255. Report.** (a) The state panel shall prepare and make available  
8 to the governor, the legislature, and the public an annual report containing a summary  
9 of the activities of the panel conducted under AS 47.14.205 - 47.14.295 and  
10 recommendations for the improvement of child protection services in the state.

11 (b) Not later than six months after the date on which the report is released  
12 under (a) of this section, the department shall submit a written response to the report.  
13 The department's response must include a description of whether and how the  
14 department will incorporate the recommendations of the panel, where appropriate.

15 \* **Sec. 44.** AS 47.14 is amended by adding a new section to article 3 to read:

16 **Sec. 47.14.265. Civil penalty for violation of AS 47.14.235.** A violation  
17 under AS 47.14.235 is subject to a civil penalty of up to \$2,500 for each violation.

18 \* **Sec. 45.** AS 47.14 is amended by adding a new section to article 3 to read:

19 **Sec. 47.14.275. Immunity.** A member of the state panel and a person who  
20 furnishes services to or advises the state panel is not liable for damages or other relief  
21 in an action involving the performance or failure to perform a duty or other activity of  
22 the state panel.

23 \* **Sec. 46.** AS 47.14 is amended by adding a new section to article 3 to read:

24 **Sec. 47.14.295. Definitions.** In AS 47.14.205 - 47.14.295,

25 (1) "adult family member" has the meaning given in AS 47.10.990;

26 (2) "near fatality" has the meaning given in AS 47.10.990;

27 (3) "state panel" means the Citizen Review Panel established under  
28 AS 47.14.205.

29 \* **Sec. 47.** AS 47.17.025 is amended by adding a new subsection to read:

30 (c) Within 20 days after receiving a report of harm, whether or not the matter  
31 is referred to a local government agency, the department shall notify the person who

1 made the report and who made a request to be notified about the status of the  
2 investigation, without disclosing any confidential information.

3 \* **Sec. 48.** AS 47.17.027(a) is amended to read:

4 (a) If the department or a law enforcement agency provides written  
5 certification to the child's school officials that (1) there is reasonable cause to suspect  
6 that the child has been abused or neglected by a person responsible for the child's  
7 welfare or as a result of conditions created by a person responsible for the child's  
8 welfare; (2) an interview at school is a necessary part of an investigation to determine  
9 whether the child has been abused or neglected; and (3) the interview at school is in  
10 the best interests of the child, school officials shall permit the child to be interviewed  
11 at school by the department or a law enforcement agency before notification of, or  
12 receiving permission from, the child's parent, guardian, or custodian. A school official  
13 shall be present during an interview at the school unless the child objects or the  
14 department or law enforcement agency determines that the presence of the school  
15 official will interfere with the investigation. **The interview shall be conducted as**  
16 **required under AS 47.17.033.** Immediately after conducting an interview authorized  
17 under this section, and after informing the child of the intention to notify the child's  
18 parent, guardian, or custodian, the department or agency shall make every reasonable  
19 effort to notify the child's parent, guardian, or custodian that the interview occurred  
20 unless it appears to the department or agency that notifying the child's parent,  
21 guardian, or custodian would endanger the child.

22 \* **Sec. 49.** AS 47.17.033 is amended by adding new subsections to read:

23 (c) An investigation by the department of child abuse or neglect reported  
24 under this chapter shall be conducted by a person trained to conduct a child abuse and  
25 neglect investigation and without subjecting a child to more than one interview about  
26 the abuse or neglect except when new information is obtained that requires further  
27 information from the child.

28 (d) An interview of a child conducted as a result of a report of harm may be  
29 audiotaped or videotaped. If an interview of a child concerns a report of sexual abuse  
30 of the child by a parent or caretaker of the child, the interview shall be videotaped,  
31 unless videotaping the interview is not feasible or will, in the opinion of the

1 investigating agency, result in trauma to the child.

2 (e) An interview of a child that is audiotaped or videotaped under (d) of this  
3 section shall be conducted

4 (1) by a person trained and competent to conduct the interview;

5 (2) if available, at a child advocacy center; and

6 (3) by a person who is a party to a memorandum of understanding with  
7 the department to conduct the interview or who is employed by an agency that is  
8 authorized to conduct investigations.

9 (f) An interview of a child may not be videotaped more than one time unless  
10 the interviewer or the investigating agency determines that one or more additional  
11 interviews are necessary to complete an investigation. If additional interviews are  
12 necessary, the additional interviews shall be conducted, to the extent possible, by the  
13 same interviewer who conducted the initial interview of the child.

14 (g) A recorded interview of a child shall be preserved in the manner and for a  
15 period provided by law for maintaining evidence and records of a public agency.

16 (h) A recorded interview of a child is subject to disclosure under the  
17 applicable court rules for discovery in a civil or criminal case.

18 (i) In this section, "child advocacy center" means a facility operated with a  
19 child-focused, community partnership committed to a multidisciplinary team approach  
20 that includes representatives from law enforcement, child protection, criminal  
21 prosecution, victim advocacy, and the medical and mental health fields who  
22 collaborate and assist in investigating allegations of sexual or other abuse and neglect  
23 of children.

24 \* **Sec. 50.** AS 47.18.300(a) is amended to read:

25 (a) The department, in coordination with local public and private agencies,  
26 shall design, develop, and implement a foster care transition program to provide  
27 support and services to individuals who

28 (1) reach or have reached the age of 16 or older while in state foster  
29 care and have not yet reached **23 years of age** [THE AGE OF 21]; and

30 (2) meet other eligibility criteria established by the department under  
31 (b) of this section.

1       \* **Sec. 51.** The uncodified law of the State of Alaska is amended by adding a new section to  
2 read:

3                   DIRECT COURT RULE AMENDMENT. Rule 3(c), Alaska Child in Need of  
4 Aid Rules of Procedure, is amended to read:

5               (c) **Presence of Grandparent or Out-of-home Care Provider [FOSTER**  
6 **PARENT].** A **grandparent of a child and the** [FOSTER PARENT OR OTHER]  
7 out-of-home care provider **are** [IS] entitled to be heard at any hearing at which the  
8 person is present. However, the court may limit the presence of **these persons in a**  
9 **hearing that has been closed to the public under (f)(2) of this rule** [THE FOSTER  
10 PARENT OR CARE PROVIDER] to the time during which the person's testimony is  
11 being given if **the court determines that such a limitation is necessary under the**  
12 **circumstances listed in (f)(2)(C) of this rule** [IT IS (1) IN THE BEST INTEREST  
13 OF THE CHILD; OR (2) NECESSARY TO PROTECT THE PRIVACY  
14 INTERESTS OF THE PARTIES AND WILL NOT BE DETRIMENTAL TO THE  
15 CHILD].

16       \* **Sec. 52.** The uncodified law of the State of Alaska is amended by adding a new section to  
17 read:

18                   DIRECT COURT RULE AMENDMENT. Rule 3(f), Alaska Child in Need of  
19 Aid Rules of Procedure, is repealed and reenacted to read:

20               (f) **General Public Access to Hearings.**

21                   (1) Except as provided in (2) of this paragraph, and unless prohibited  
22 by federal or state statute or regulation, court order, or other court rule, hearings are  
23 open to the public.

24                   (2) The following hearings are closed to the public:

25                               (A) the initial court hearing after the filing of a petition that  
26 begins the child-in-need-of-aid case;

27                               (B) a hearing following the initial hearing in which a parent,  
28 child, or other party to the case is present but has not had an opportunity to  
29 obtain legal representation;

30                               (C) a hearing, or a part of a hearing, for which the court issues  
31 a written order finding that allowing the hearing, or part of the hearing, to be

1 open to the public would reasonably be expected to stigmatize or be  
2 emotionally damaging to a child; inhibit a child's testimony in the hearing;  
3 disclose matters otherwise required to be kept confidential by state or federal  
4 statute or regulation, court order, or court rule; or interfere with a criminal  
5 investigation or proceeding or a criminal defendant's right to a fair trial in a  
6 criminal proceeding.

7 (3) Before ruling on a request under (2)(C) of this paragraph  
8 concerning potential interference with a criminal investigation or proceeding, the court  
9 shall give notice and an opportunity to be heard to the state or a municipal agency that  
10 is assigned to the criminal investigation or to the prosecuting attorney.

11 (4) If the court closes a hearing to the public under (2)(C) of this  
12 paragraph, the court shall close only the portions of the hearing necessary to prevent  
13 the potential harm listed in (2)(C) of this paragraph. If a hearing, or part of a hearing,  
14 is open to the public, the court shall hear in camera any information offered regarding  
15 the location, or readily leading to the location, of a parent, child, or other party to the  
16 case who is a victim of domestic violence or whose safety or welfare may be  
17 endangered by the public release of information. Access to testimony heard in camera  
18 under this subparagraph is limited to the court and authorized court personnel.

19 (5) Notwithstanding any other provision of this rule, the court shall  
20 issue an order to prohibit all persons in a hearing open to the public from disclosing to  
21 any person a name, picture, or other information that would readily lead to the  
22 identification of a child who is the subject of the proceeding. If a person violates the  
23 order, the court may impose any appropriate sanction, including contempt and closure  
24 of any further hearings to the person.

25 (6) A party to the proceeding may move the court to close to the public  
26 a hearing, or part of the hearing, to avoid the harm specified in (2)(C) of this  
27 paragraph. A member of the public may request in writing to be served with a motion  
28 filed under this subparagraph. If such a request has been filed in advance of the filing  
29 of the motion, the party filing the motion must also serve the member of the public  
30 who requested notice under this subparagraph. The court may waive the service  
31 required under this subparagraph to a member of the public if a motion to close the

1 hearing, or part of the hearing, is made under this subparagraph immediately before or  
2 during the hearing and the court finds that

3 (A) the need for closure was not reasonably foreseeable  
4 sufficiently in advance of the hearing to allow for notice;

5 (B) there is good cause not to delay the hearing in order to  
6 achieve notice, taking into consideration the age of the child and the potential  
7 adverse effect that a delay could have on the child; and

8 (C) whatever notice is practicable under the circumstances has  
9 occurred.

10 \* **Sec. 53.** The uncodified law of the State of Alaska is amended by adding a new section to  
11 read:

12 DIRECT COURT RULE AMENDMENT. Rule 17.2(f), Alaska Child in Need  
13 of Aid Rules of Procedure, is amended to read:

14 (f) **Additional Findings.** In addition to the findings required under paragraph  
15 (e), the court shall also make written findings related to

16 (1) whether the Department has made reasonable efforts required  
17 under AS 47.10.086 or, in the case of an Indian child, whether the Department has  
18 made active efforts to provide remedial services and rehabilitative programs as  
19 required by 25 U.S.C. Sec. 1912(d);

20 (2) whether the parent or guardian has made substantial progress to  
21 remedy the parent's or guardian's conduct or conditions in the home that made the  
22 child a child in need of aid; [AND]

23 (3) if the permanent plan is for the child to remain in out-of-home care,  
24 whether the child's out-of-home placement continues to be appropriate and in the best  
25 interests of the child; **and**

26 **(4) whether the Department has made reasonable efforts to finalize**  
27 **the permanent plan for the child.**

28 \* **Sec. 54.** The uncodified law of the State of Alaska is amended by adding a new section to  
29 read:

30 DIRECT COURT RULE AMENDMENT. Rule 18(d)(1), Alaska Child in  
31 Need of Aid Rules of Procedure, is amended to read:

1 (d) **Relinquishment.**

2 (1) Notwithstanding other provisions of this rule, the court may  
3 terminate parental rights after a voluntary relinquishment pursuant to **AS 47.10.089**  
4 [AS 25.23.180]. In the case of an Indian child, the relinquishment must meet the  
5 requirements set forth in 25 U.S.C. § 1913(c).

6 \* **Sec. 55.** The uncodified law of the State of Alaska is amended by adding a new section to  
7 read:

8 DIRECT COURT RULE AMENDMENT. Rule 22(c), Alaska Child in Need  
9 of Aid Rules of Procedure, is amended to read:

10 (c) **Child's Name or Picture.** The name or picture of a child who is the  
11 subject of a CINA proceeding may not be made available to the public unless  
12 authorized by court order accompanied by a written statement reciting the  
13 circumstances which support such authorization, **or unless to implement the**  
14 **permanency plan for the child after all parental rights of custody have been**  
15 **terminated.**

16 \* **Sec. 56.** The uncodified law of the State of Alaska is amended by adding a new section to  
17 read:

18 DIRECT COURT RULE AMENDMENT. Rule 9(a), Alaska Adoption Rules,  
19 is amended to read:

20 (a) **Form.** A consent or relinquishment must be in writing and must include:

21 (1) notice of the person's right to withdraw the consent or  
22 relinquishment as provided by paragraphs (g) and (h) of this rule;

23 (2) the address and telephone number of the court in which the  
24 adoption or relinquishment proceeding has or is expected to be filed;

25 (3) a statement of the right to counsel as stated in Rule 8;

26 (4) a statement concerning whether or not any visitation rights **or**  
27 **other parental privileges** are sought to be retained after the adoption;

28 (5) if a consent, the information required in AS 25.23.060; and

29 (6) if signed by a parent, a statement of whether the parent is a minor.

30 \* **Sec. 57.** The uncodified law of the State of Alaska is amended by adding a new section to  
31 read:

1 DIRECT COURT RULE AMENDMENT. Rule 9(g), Alaska Adoption Rules,  
2 is amended to read:

3 (g) **Withdrawal of Consent or Relinquishment of a Non-Indian Child.**

4 The parent of a non-Indian child may withdraw a consent or relinquishment by  
5 notifying in writing the court, or the person or agency obtaining the consent or  
6 relinquishment, within 10 days of the birth or signing of the consent or  
7 relinquishment, whichever is later. Notification is timely if received or postmarked on  
8 or before the last day of this time period. The parent may move the court to permit  
9 withdrawal of the consent or relinquishment after the 10 day period pursuant to  
10 AS 25.23.070 for a consent or AS 25.23.180(g) **or AS 47.10.089(h)** for a  
11 relinquishment.

12 \* **Sec. 58.** The uncodified law of the State of Alaska is amended by adding a new section to  
13 read:

14 DIRECT COURT RULE AMENDMENT. Rule 13(a), Alaska Adoption  
15 Rules, is amended to read:

16 (a) **Voluntary Relinquishment.** A decree terminating parental rights may be  
17 entered after a voluntary relinquishment pursuant to AS 25.23.180 **or AS 47.10.089.**  
18 The court shall enter findings of fact which must include a statement concerning  
19 whether visitation rights are being allowed under AS 25.23.130(c) **or other privileges**  
20 **are being retained under AS 25.23.180 or AS 47.10.089,** and whether the time limit  
21 for withdrawal of the relinquishment has elapsed. If the relinquishment was signed in  
22 the presence of the court, findings also must be entered as to whether the parent  
23 understood the consequences of the relinquishment, and whether the relinquishment  
24 was voluntarily signed.

25 In the case of a voluntary relinquishment of parental rights to an Indian child,  
26 the court shall make additional findings concerning whether any notice required by  
27 Rule 10(e) was timely given; whether the relinquishment was voluntary and in  
28 compliance with the requirements of 25 U.S.C. Section 1913; and whether the child's  
29 placement complies with the preferences set out in 25 U.S.C. Section 1915 or good  
30 cause exists for deviation from the placement preference.

31 \* **Sec. 59.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 DIRECT COURT RULE AMENDMENT. Rule 801(d), Alaska Rules of  
3 Evidence, is amended by adding a new paragraph to read:

4 (3) Recorded Statement by Child Victims of Crime. The statement is a  
5 recorded statement by the victim of a crime who is less than 16 years of age and

6 (A) the recording was made before the proceeding;

7 (B) the victim is available for cross-examination;

8 (C) the prosecutor and any attorney representing the defendant  
9 were not present when the statement was taken;

10 (D) the recording is on videotape or other format that records  
11 both the visual and aural components of the statement;

12 (E) each person who participated in the taking of the statement  
13 is identified on the recording;

14 (F) the taking of the statement as a whole was conducted in a  
15 manner that would avoid undue influence of the victim;

16 (G) the defense has been provided a reasonable opportunity to  
17 view the recording before the proceeding; and

18 (H) the court has had an opportunity to view the recording and  
19 determine that it is sufficiently reliable and trustworthy and that the interests of  
20 justice are best served by admitting the recording into evidence.

21 \* **Sec. 60.** The uncodified law of the State of Alaska is amended by adding a new section to  
22 read:

23 INDIRECT COURT RULE AMENDMENT. (a) AS 13.26.064, added by sec. 2 of  
24 this Act, amends Rules 14 and 15, Alaska Rules of Probate Procedure, by providing that  
25 retained privileges be set out in the guardianship decree and by providing additional  
26 procedures related to a voluntary relinquishment of parental rights.

27 (b) AS 25.23.180(j) - (n) and AS 47.10.089, added by secs. 4 and 17 of this Act,  
28 amend Rules 9 and 13, Alaska Adoption Rules, by requiring retained privileges to be set out  
29 in the relinquishment form and order and by providing additional procedures related to the  
30 relinquishment.

31 (c) AS 25.23.180(k) - (n) and AS 47.10.089(g), (h), and (j), added by secs. 4 and 17

1 of this Act, amend Rule 13, Alaska Adoption Rules, by authorizing review hearings for  
2 voluntary relinquishments.

3 (d) AS 47.10.080(l), as amended by sec. 12 of this Act, amends Rule 17.2(f), Alaska  
4 Child in Need of Aid Rules of Procedure, by modifying the grounds for review of a  
5 permanent plan.

6 (e) AS 47.10.089, added by sec. 17 of this Act, amends Rule 18, Alaska Child in  
7 Need of Aid Rules of Procedure, by providing that a relinquishment be in writing, allowing  
8 for the withdrawal of the relinquishment, allowing for the retention of certain privileges, and  
9 authorizing a review hearing before the entry of an adoption or legal guardianship decree.

10 \* **Sec. 61.** The uncodified law of the State of Alaska is amended by adding a new section to  
11 read:

12 **INDIRECT COURT RULE AMENDMENT.** (a) Sections 9 and 10 of this Act, and  
13 AS 47.10.080(u), enacted by sec. 14 of this Act, have the effect of changing Rule 3, Alaska  
14 Child in Need of Aid Rules of Procedure, by allowing members of the public to attend court  
15 hearings except in certain circumstances.

16 (b) Sections 19 and 22 - 27 of this Act have the effect of changing Rule 22, Alaska  
17 Child in Need of Aid Rules of Procedure, by allowing the disclosure of confidential  
18 information pertaining to a child, including a child's name or picture to be made public in  
19 certain circumstances.

20 \* **Sec. 62.** The uncodified law of the State of Alaska is amended by adding a new section to  
21 read:

22 **APPLICABILITY.** (a) The amendments to Rule 3, Alaska Child in Need of Aid  
23 Rules of Procedure, made by secs. 51 and 52 of this Act, apply to hearings that are conducted  
24 on or after the effective date of secs. 51 and 52 of this Act.

25 (b) Sections 9 - 11, 14, 18, 19, 22 - 27, 51, 52, and 55 of this Act apply to all  
26 proceedings and hearings conducted on or after the effective date of those sections.

27 (c) Sections 9, 10, 14, and 19 - 27 of this Act apply to all information, records, and  
28 files created on or after the effective date of those sections; however, if a file contains  
29 information and records that were created before the effective date of secs. 9, 10, 14, and 19 -  
30 27 of this Act, that information and those records retain the confidentiality that they had under  
31 the law on the day before the effective date of secs. 9, 10, 14, and 19 - 27 of this Act.

1     \* **Sec. 63.** The uncodified law of the State of Alaska is amended by adding a new section to  
2 read:

3           TRANSITION: REGULATIONS. The Department of Health and Social Services  
4 may proceed to adopt regulations necessary to implement the changes made by this Act. The  
5 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the  
6 effective date of the relevant statutory change.

7     \* **Sec. 64.** The uncodified law of the State of Alaska is amended by adding a new section to  
8 read:

9           REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the  
10 heading of AS 47.10.088 from "Termination of parental rights and responsibilities" to  
11 "Involuntary termination of parental rights and responsibilities."

12     \* **Sec. 65.** The uncodified law of the State of Alaska is amended by adding a new section to  
13 read:

14           CONDITIONAL EFFECT. (a) The amendments to Rule 3, Alaska Child in Need of  
15 Aid Rules of Procedure, made by secs. 51 and 52 of this Act, take effect only if secs. 51 and  
16 52 of this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15,  
17 Constitution of the State of Alaska.

18           (b) Section 12 of this Act and Rule 17.2(f), Alaska Child in Need of Aid Rules, as  
19 amended by sec. 53 of this Act, take effect only if sec. 53 and sec. 60(d) of this Act receive  
20 the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the  
21 State of Alaska.

22           (c) Rule 18(d)(1), Alaska Child in Need of Aid Rules, as amended by sec. 54 of this  
23 Act, takes effect only if sec. 54 of this Act receives the two-thirds majority vote of each house  
24 required by art. IV, sec. 15, Constitution of the State of Alaska.

25           (d) The amendments to Rule 22(c), Alaska Child in Need of Aid Rules of Procedure,  
26 made by sec. 55 of this Act take effect only if sec. 55 of this Act receives the two-thirds  
27 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

28           (e) Sections 9 and 10 of this Act, AS 47.10.080(u), enacted by sec. 14 of this Act, and  
29 secs. 19 and 22 - 27 of this Act, take effect only if secs. 51, 52, 53, and 61 of this Act receive  
30 the two-thirds majority vote of each house as required by art. IV, sec. 15, Constitution of the  
31 State of Alaska.

1 (f) Rule 9(a), Alaska Adoption Rules, as amended by sec. 56 of this Act, takes effect  
2 only if sec. 56 of this Act receives the two-thirds majority vote of each house required by art.  
3 IV, sec. 15, Constitution of the State of Alaska.

4 (g) Rule 9(g), Alaska Adoption Rules, as amended by sec. 57 of this Act, takes effect  
5 only if sec. 57 of this Act receives the two-thirds majority vote of each house required by art.  
6 IV, sec. 15, Constitution of the State of Alaska.

7 (h) Rule 13(a), Alaska Adoption Rules, as amended by sec. 58 of this Act, takes effect  
8 only if sec. 58 of this Act receives the two-thirds majority vote of each house required by art.  
9 IV, sec. 15, Constitution of the State of Alaska.

10 (i) AS 13.26.064, added by sec. 2 of this Act, AS 25.23.180(j) - (n), added by sec. 4  
11 of this Act, and AS 47.10.089, added by sec. 17 of this Act, take effect only if sec. 60(a) and  
12 (b) of this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15,  
13 Constitution of the State of Alaska.

14 \* **Sec. 66.** If, under sec. 65 of this Act, secs. 9 and 10 of this Act, AS 47.10.080(u), enacted  
15 by sec. 14 of this Act, and secs. 19 and 22 - 27 of this Act take effect, they take effect July 1,  
16 2005.

17 \* **Sec. 67.** Except as provided in sec. 66 of this Act, this Act takes effect immediately under  
18 AS 01.10.070(c).